

**TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
BOARD MEETING MINUTES
June 28, 2010**

The Texas Board of Veterinary Medical Examiners met for a regularly scheduled meeting on Monday, June 28, 2010 in Room, #2-225 of the William P. Hobby, Jr. Building, 333 Guadalupe, Austin, Travis County, Texas. Bud Alldredge, D.V.M., President, called the meeting to order at 8:36 a.m. Board Members present were David Heflin, D.V.M., Vice-President; John Clader, D.V.M., Secretary; Janie Carpenter, D.V.M., Mr. David Kercheval, Mr. Paul Martinez, and David Rosberg, D.V.M. Board Staff present were: Dewey E. Helmcamp III, JD, Executive Director; Nicole Oria, General Counsel; Ina Franz, Director of Licensing; Keith Cole, Chief Fiscal Officer; Peter Hartline, Director of Enforcement; and Loris Jones, Executive Assistant.

Dr. Carpenter moved, Mr. Kercheval seconded and the motion passed to approve the absence of Cynthia Diaz.

Agenda Item 2, Approval of Minutes. Dr. Rosberg moved, Dr. Heflin seconded and the motion passed to approve the minutes of the March 22, 2010 Board meeting.

Agenda Item 3, Appointment of addition member to the Rules Committee. Dr. Alldredge appointed Janie Carpenter, DVM to replace Patrick Allen, DVM on the Rules Committee.

Agenda Item 4, Presentation by Roberta Kalafut, D.O. "Drugs and Drug Testing: The Good, The Bad and The Ugly". Dr. Alldredge welcomed and introduced Dr. Roberta Kalafut, co-founder of SpineAbilene. Dr. Kalafut is board certified in Physical Medicine and Rehabilitation, with a subspecialty in spine. Dr. Kalafut previously served on the Texas Medical Board (TMB) and was instrumental in renewing the TMB policies surrounding impaired physicians and worked to develop pain treatment guidelines and a disciplinary process. Dr. Kalafut presented an overview of drugs and drug testing of health practitioners.

Agenda Item 6, Licensure Petitions.

a. Discussion, recommendation and possible action on petitions to take the State Board Exam.

1. Scott T. Brucchieri, DVM. Dr. Brucchieri is a 1994 graduate of the College of Veterinary Medicine at Ohio State. Upon graduation, Dr. Brucchieri took and passed the NBE and CCT

examination. He also attained a veterinary license in Ohio that year. In 1998, Dr. Brucchieri earned his veterinary license in Arizona. In the summer of 1999, he and his wife became owners of the Canyon Pet Hospital in Arizona. From 2005 through 2007, seven cases were filed against Dr. Brucchieri's Arizona license which ultimately resulted in his license revocation on June 16, 2007.

The Findings of Fact and Conclusions of Law issued by the Arizona Veterinary Board state several counts of inadequate medical records; cruelty or neglect for depriving an animal of necessary food and water; advertising as a non-profit and accepting money and goods when there was no application for a non-profit status; advertising as a no-kill shelter and then euthanizing eight (8) non-aggressive dogs; failure to diagnose a contagious disease; gross negligence for administering an injection (Dexamethasone Sodium Phosphate) and then giving and/or prescribing another drug (Rimadyl), as this type of drug was found to be contraindicated, and other similar violations that resulted in the revocation of his Arizona license.

Currently, Dr. Brucchieri works as a veterinary technician for his wife. He is also completing his seminary degree and is on staff at the Flagstaff Church of the Nazarene. The last veterinary continuing education he received was in February of 2007.

Earlier this year, Dr. Brucchieri approached the Arizona Veterinary Medical Examining Board to inquire about the possibility to have his Arizona license reinstated. He was advised that he had to take and pass the NAVLE (national examination) and upon passing same, he needed to apply for his license reinstatement. After discussion, **Dr. Rosberg moved, Dr. Heflin seconded and the motion passed to** require Dr. Brucchieri to complete seventeen hours of Continuing Education, take and pass the NAVLE, get his license in Arizona reinstated and after completion of these items he would then be allowed to reapply for a Texas license.

b. Discussion, recommendation and possible action on petitions to waive the Clinical Competency Test and be allowed to take the Texas State Board Exam.

1. Kathryn A. Carter, DVM. Dr. Carter is a 1980 graduate of Texas A & M University, College of Veterinary Medicine. That same year, she took and passed both, the National Board Examination (NBE) and the CCT (Clinical Competency Test). A Texas veterinary medical license was issued to her on August 22, 1980. The Texas license was cancelled on March 1, 1995 for failure to renew as required by law. Dr. Carter also obtained her veterinary medical license in Minnesota in 1989 and it is still current.

In 1990, Dr. Carter left the practice of veterinary medicine, and gained employment with the University of Minnesota Foundation. She pursued a career in university advancement, gained a position as a regional director for major gifts at the University of Illinois Foundation and later as fund raiser for the same university's biological sciences department. In 2009, she left that position and started to re-educate herself in clinical veterinary medicine.

Dr. Carter participated in some continuing education courses over the last few years. She is a member of AAEP, the Florida Association of Equine Practitioners and the Texas Equine Veterinary Association. As she has not been in actual practice for over 20 years, Dr. Carter is petitioning the Board to be allowed to re-take the Texas State Board Licensing examination to regain her Texas veterinary medical license. After discussion, **Mr. Kercheval moved, Dr. Carpenter seconded and the motion passed** to allow Dr. Carter to take and pass the State Board Examination within one year of the approval.

The Board further ordered that Dr. Carter must complete the following after obtaining her Texas Veterinary License:

1. Submit for approval prior to commencing the practice of veterinary medicine, the name of a monitoring licensed veterinarian to the Executive Director of the Board.
2. The approved monitor must submit a letter to the Board acknowledging that they have been made aware of the terms and conditions placed on

- Applicant's license, and their responsibility to submit quarterly reports.
3. Applicant must work under the general supervision of the approved monitor for a period of twenty-four (24) months.
 4. Applicant must obtain a total of 25 hours of Continuing Education each calendar year during the twenty-four months Applicant practices under a monitor beginning in calendar year 2011.
 5. It is the responsibility of the Applicant to ensure that the approved monitor submits 4 reports at quarterly intervals to begin 3 months from the date of licensure and continuing for the term of this order regarding Applicant's proficiency and attesting to Applicant's:
 - a. Adherence to the laws and rules;
 - b. Veterinary skills; and
 - c. Proper record keeping.

Dr. Clader moved and Mr. Martinez seconded and the motion passed to go into Executive Session at 10:35 a.m. for private consultation and advice of counsel concerning settlement offers, and/or disciplinary action under the authority of the Open Meetings Act, Government Code, §551.071 and Occupations Code §801.407(d); and Attorney General's Opinion No. H-484. Open session resumed at 12:30 p.m. and it was announced that no action was taken. A certified agenda was made.

Agenda Item 7, Consideration and Approval of Agreed Orders. Dr. Clader moved, Dr. Rosberg seconded, and the motion passed to approve the Agreed Orders on the following: *Jim Airhart, DVM; Jay Meyer, DVM; Andra Anderson, DVM; Warren Resell, DVM; W. Christopher Blevins, DVM; Katherine David, DVM; Robert Ball, DVM; John Montalbano, DVM; Jaime Ahumada, DVM; James Hayes, III, DVM; Stanley Zbylot, DVM; Dennis Wendt, DVM; and Mary Jane Grant, DVM.*

Agenda Item 8, Consideration and Approval of Cease and Desist Orders. Dr. Heflin moved, Dr. Carpenter seconded, and the motion passed to approve the Cease and Desist Orders on case number 10-043.

The Board recessed at 12:47 p.m.

The Board reconvened at 1:10 p.m.

Agenda Item 6 continued.

b. Discussion, recommendation and possible action on petitions to waive the Clinical Competency Test and be allowed to take the Texas State Board Exam.

1. Steven Wikse, DVM. Dr. Wikse is a 1966 graduate of the College of Veterinary Medicine at the University of California, Davis. Upon graduation, Dr. Wikse took and passed the National Board Examination (NBE) in California. The Clinical Competency Test (CCT) was not offered at the time.

Dr. Wikse served in the US Army for a number of years and was honorably discharged in December of 1973. Thereafter, he earned a veterinary license in California, Oregon and Washington. Additionally, he attained diplomat status from the American College of Veterinary Practitioners. In 1988, he earned a special Texas veterinary license which limited his practice to the performance of his duties as an employee of Texas A & M University.

Dr. Wikse retired from Texas A & M University in 2008 and has not practiced veterinary medicine since that time. He has attended veterinary continuing education programs through March of this year. Dr. Wikse publishes a veterinary column and lectures/advises veterinary students to this date. In 2003, Dr. Wikse received the American Association of Bovine Practitioners Award of Excellence. He also received awards from TVMA and TAMU's former student association for his dedication to teaching veterinary students.

Dr. Wikse is requesting that this Board waive the CCT requirement and allow him to take the regular State Licensing examination for full license to practice in the State of Texas. The main reason for Dr. Wikse to seek a full license is to continue his participation in the Texas Beef Partnership in Extension Program (Beef PEP). After discussion, **Dr. Clader moved, Mr. Martinez seconded and the motion passed to waive the CCT and allow Dr. Wikse to take and pass the State Board Examination within one year.**

Agenda Item 5, Report from the Rules Committee. The rules committee met as part of the full Board meeting, Ms. Oria presented the rules that were up for adoption.

a. Discussion, recommendation, and possible action on rules to be adopted. The following changes to Board rules were proposed at the March 22, 2010 Board meeting and were considered for adoption:

1. 571.1, Criminal History Evaluation Letters
2. 571.3, Eligibility for Examination and Licensure
3. 573.24, Issuance of Certificates Through Direct Knowledge Only
4. 573.65, Definitions
5. 573.75, Notification of Licensee Addresses
6. 575.281, Complaints – Appeals
7. 575.35, Temporary License Suspension Proceedings
8. 577.15, Fee Schedule

After discussion by the Board, **Dr. Carpenter moved, Mr. Kercheval seconded and the motion passed to adopt the proposed amendments to §§571.1, 571.3, 573.24, 573.65, 573.75, 575.281, 575.35, and 577.15 with non-substantive clerical changes.**

b. Discussion, recommendation, and possible action on rules to be proposed:

1. 571.3, Eligibility for Examination and Licensure
2. 573.65, Definitions
3. 577.2, Meetings
4. 573.17, Dentistry

Ms. Oria presented an overview of each rule as presented for proposal. After discussion, **Dr. Heflin moved, Mr. Kercheval seconded and the motion passed to approve the proposed amendments as written to §§571.3, 573.65, and 577.2 and to publish the proposed preambles and amendments in the *Texas Register* in accordance with law.**

After further discussion, **Dr. Rosberg moved** that all forms of dentistry be under direct supervision. **The motion failed due to the lack of a second. Mr. Kercheval moved and Dr.**

Carpenter seconded to approve the proposed new rule, §573.17, as presented and to publish the proposed preamble and new rule in the *Texas Register* in accordance with law. After further discussion, Mr. Kercheval withdrew his previous motion and then **Mr. Kercheval moved and Dr. Carpenter seconded and the motion passed** to approve the rule with the change that dentistry is defined as not including the floating of teeth of animals with handheld, non-motorized, non-air-powered files or rasps.

Agenda Item 5(c) Discussion, recommendation and possible action regarding Petitions for Rulemaking.

1. 575.28, Complaints – Investigations

Mr. Greg Munson petitioned the Board to amend §575.28, Complaints – Investigations to require that an investigator assigned to a case provide the complainant a copy of the response from the respondent and notify the complainant that they may submit additional comments and other supporting documentation at any time during an investigation. After discussion, **Dr. Carpenter moved, Mr. Martinez seconded and the motion passed to refer the Petition for Rulemaking to the Rules Committee for further consideration.**

Agenda Item 10: Citizen Comments. Dr. Alldredge called for citizen comments. Ms. Cindy Munson, Mr. Greg Munson, Ms. Linda Eppes, Ms. Stephanie Black, and Ms. Brenda Collier addressed the Board.

Agenda Item 18, Executive Director’s Report.

- a. **Report on Health Professions Council (HPC) Activities.** Mr. Helmcamp gave a brief update on HPC activities.
- b. **Report on 2010 License Renewals.** Ms. Franz discussed the annual renewals as of June 11, 2010.
- c. **Report on State Board Exams.** Ms. Franz discussed the results of the April 5, 2010 and June 7, 2010 State Board Exam, noting the 100% pass rate for each exam.

- d. Status of FY2010 Operating Budgets.** Mr. Dewey Helmcamp, gave a brief overview of the FY2010 budget. Mr. Helmcamp further discussed budget cuts that each state agency is having to develop and potential ways the TBVME will achieve the required cuts.
- e. Board Performance Update.**
- 1. Enforcement Report:** Mr. Hartline discussed the Enforcement side of the agency and noted that there has been a trend of increased number of complaints. Ms. Moriarty reviewed cases pending action at the State Office of Administrative Hearings.
 - 2. Licensing and Examinations Report:** Ms. Franz discussed the statistics related to Licensing and Examinations, as of June 15, 2010 we had 7,214 licensed veterinarians in all categories.
 - 3. Peer Assistance Report:** Mr. Helmcamp mentioned that there are currently eighteen veterinarians under the Peer Assistance program.
- f. Report on discussion with Texas Veterinary Medical Association.** Mr. Helmcamp mentioned that discussions with the TVMA have been ongoing and continue to be productive.

Agenda Item 12, Discussion and possible action regarding Executive Director's Annual Performance Evaluation. Dr. Carpenter moved, Dr. Clader seconded and the motion passed to go into Executive Session at 3:40 p.m. to discuss matters involving the appointment, employment, evaluation, and salary of the Executive Director under the authority of the Open Meetings Act, Government Code, §551.074. Open session resumed at 4:45 p.m. and it was announced that no action was taken. A certified agenda was made.

There being no further business, the meeting was adjourned at 4:45 p.m.